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EXAMINER

YOUNG, JOHN L

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 02/02/2004

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/107,971

Applicant(s)

Walker et al.

Examiner

John Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 28, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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REOPENING OF PROSECUTION/NEW GROUNDS OF REJECTION AFTER APPEAL

NON-FINAL REJECTION

(PAPER #20)

1. In view of the Appeal Brief (paper#19) filed on 10/28/2003, PROSECUTION IS HEREBY REOPENED because new grounds of rejection are set forth below.

To avoid abandonment of the application, Appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

STATUS OF THE CLAIMS

2. Claims 1-27 are pending.

DRAWING OBJECTIONS

3. This application has been filed with drawings that are acceptable for examination and

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publication purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

CLAIM REJECTIONS — 35 U.S.C. §101

35 U.S.C. §101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

4. Claims 1-19 are rejected under 35 U.S.C. 101, because said claim is directed to non-statutory subject matter.

As per claims 1-19, as drafted said claims are not limited by language within the technological arts (see *In re Waldbaum*, 173 USPQ 430 (CCPA 1972); *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172 (CCPA 1974) also see MPEP 2106 IV 2(b) to a useful, concrete and tangible application (See *State Street v. Signature financial Group*, 149 F.3d at 1374-75 , 47 USPQ 2d at

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1602 (Fed Cir. 1998) ; *AT&T Corp. v. Excel*, 50 USPQ 2d 1447, 1452 (Fed. Cir. 1999)

Note: it is well settled in the law that “[although] a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415, F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claims that are not recited in the claims.” (See MPEP 2173.05(q)).

Also, in this case, the claim language is merely non-functional descriptive material disembodied from a concrete tangible and useful result.

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Independent claims 1, 11, 15 & 20-25 and dependent claims 2-14, are rejected under 35 U.S.C. §103(a) as being unpatentable over Walker 6,267,670 (7/31/2001) [US f/d: Mar. 21, 1997] (herein referred to as “Walker ‘670’”) in view of Roberts 5,772,510 (6/30/1998) [US f/d: 10/26/1995] (herein referred to as “Roberts”) and further in view of “Heads I win, tails you lose.” The Economist (13 June 1992) vol. 323, p. 74 (herein referred to as “The Economist”).

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As per claim 1, **NOTE:** The instant application specification presents admitted prior art, as admitted in the instant application specification page 1, ll. 14-17 which recites: "Patent Application No. 08/822,709, [now patent US 6,267,670, i.e., Walker '670] entitled SYSTEM AND METHOD FOR PERFORMING LOTTERY TICKET TRANSACTIONS UTILIZING POINT-OF-SALE TERMINALS, filed on March 21, 1997 . . . incorporated herein by reference. . . ." and the background information of said reference explicitly recites that: "*Some foreign countries (e.g., Germany) allow a lottery player to purchase fractional lottery tickets. . . .*" (See Walker '670 (col. 1, ll. 65-67)). The Examiner interprets this disclosure in Walker '670 as reading on the broad recitation in the preamble of claim 1 of "A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal. . . ."; i.e., this disclosure would have reasonably suggest "A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal. . . ." to a person of ordinary skill in the art at the time of the invention was well known in the art; therefore, Walker '670 (col. 1, ll. 65-67) shows that:

A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal, comprising: determining a monetary value; selecting a ticket record that includes a set of ticket numbers; purchasing at least one lottery ticket based on the monetary value and the set of ticket numbers after the step of selecting; and

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outputting the ticket numbers and a fractional lottery ticket value
that is based on the monetary value. . . .

was well known in the art because it would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the well known practice of selling fractional lottery tickets in the United States, i.e., based on said admitted well known practice of selling fractional lottery tickets in Germany.

Walker '670 lacks an explicit recitation of “outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value. . . .”

Roberts (FIG. 2B, el. 20b; and col. 4, ll. 5-65) shows “outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value. . . .”

Roberts proposes ticket number modifications that would have applied to the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and the well known method of Walker '670 because such combination would have provided means for “[sending] . . . ticket completion information necessary to provide a completed lottery ticket. . . .” (See Roberts (col. 6, ll. 54-55)).

Walker '670 lacks an explicit recitation of: “determining a monetary value. . . .”

The Economist (p. 1) shows elements that suggest “determining a monetary value. . . .”

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The Economist proposes monetary determination modifications that would have applied to the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Walker '670 because such combination would have provided means for "determining a monetary value. . . ." (See The Economist (p. 1)).

As per claim 2, **admitted prior art attributed to Walker '670** Walker '670 in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Walker '670 lacks an explicit recitation of: "determining a monetary value based on an amount of change due for a purchase. . . ."

The Economist (p. 1) shows elements that suggest "determining a monetary value based on an amount of change due for a purchase. . . ."

The Economist proposes monetary determination modifications that would have applied to the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Walker '670 because such combination would have provided means for "determining a monetary value. . . ." (See The Economist (p. 1)).

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As per claim 3, **admitted prior art attributed to Walker '670** Walker '670 in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Walker '670 lacks an explicit recitation of: "creating the ticket record. . . ."

Roberts (FIG. 1; FIG. 2B, el. 20b; FIG. 2C, el. 20b; & FIG. 8B) shows elements that suggest "creating the ticket record. . . ."

Roberts proposes ticket record creation modifications that would have applied to the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and method of Walker '670 because such combination would have provided means "for dispensing completed lottery tickets from a vending machine." (See Roberts (col. 2, ll. 59-60)).

As per claim 4, **admitted prior art attributed to Walker '670** Walker '670 in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Walker '670 lacks an explicit recitation of: "selecting a ticket record randomly. . . ."

Roberts (FIG. 2A; FIG. 5; & FIG. 8A) shows elements that suggest "selecting a ticket record randomly. . . ."

Roberts proposes ticket record selection modifications that would have applied to

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the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and method of Walker '670 because such combination would have provided means "for dispensing completed lottery tickets from a vending machine." (See Roberts (col. 2, ll. 59-60)).

As per claim 5, **admitted prior art attributed to Walker '670** in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Walker '670 lacks an explicit recitation of: "receiving a signal indicating selected ticket numbers. . . ."

Roberts (FIG. 2A; FIG. 5; & FIG. 8A) shows elements that suggest "receiving a signal indicating selected ticket numbers. . . ."

Roberts proposes ticket selection modifications that would have applied to the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and method of Walker '670 because such combination would have provided means "for dispensing completed lottery tickets from a vending machine." (See Roberts (col. 2, ll. 59-60)).

As per claim 6, **admitted prior art attributed to Walker '670** in

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view of Roberts and further in view of The Economist shows the method of claim 5. (See the rejection of claim 5 supra).

Walker '670 lacks an explicit recitation of: "selecting a plurality of ticket records to select a ticket record that indicates the selected ticket numbers. . . ."

Roberts (FIG. 6A & FIG. 6B) shows elements that suggest "selecting a plurality of ticket records to select a ticket record that indicates the selected ticket numbers. . . ."

Roberts proposes ticket record selection modifications that would have applied to the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and method of Walker '670 because such combination would have provided means "for dispensing completed lottery tickets from a vending machine." (See Roberts (col. 2, ll. 59-60)).

As per claim 7, **admitted prior art attributed to Walker '670** Walker '670 in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Walker '670 lacks an explicit recital of "increasing a total value amount of the selected ticket record in accordance with the fractional lottery ticket value."

The Economist (p. 1) shows elements that suggest "increasing a total value amount of the selected ticket record in accordance with the fractional lottery ticket value."

The Economist proposes ticket value increase modifications that would have

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applied to the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Walker '670 because such combination would have provided means for "determining a monetary value. . . ." (See The Economist (p. 1)).

As per claim 8, **admitted prior art attributed to Walker '670 Walker '670** in view of Roberts and further in view of The Economist shows the method of claim 7. (See the rejection of claim 7 supra).

Walker '670 lacks an explicit recital of "adjusting an amount to round up based on the increased total value amount."

The Economist (p. 1) shows elements that suggest "adjusting an amount to round up based on the increased total value amount."

The Economist proposes value-rounding-up modifications that would have applied to the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Walker '670 because such combination would have provided means for "determining a monetary value. . . ." (See The Economist (p. 1)).

As per claim 9, **admitted prior art attributed to Walker '670 Walker '670** in view of Roberts and further in view of The Economist shows the method of claim 1. (See

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the rejection of claim 1 supra).

Walker '670 lacks an explicit recital of "selecting a ticket record having an amount to round up at least as great as the fractional lottery ticket value."

The Economist (p. 1) shows elements that suggest "selecting a ticket record having an amount to round up at least as great as the fractional lottery ticket value."

The Economist proposes fractional rounding-up modifications that would have applied to the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Walker '670 because such combination would have provided means for "determining a monetary value. . . ." (See The Economist (p. 1)).

As per claim 10, Walker '670 in view of Roberts and further in view of The Economist shows the method of claim 1. (See the rejection of claim 1 supra).

Walker '670 lacks an explicit recital of "determining a set of ticket records that each have an amount to round up at least as great as the fractional lottery ticket value; and selecting a ticket record from the set of ticket records which has a minimal amount to round up."

The Economist (p. 1) shows elements that suggest "determining a set of ticket records that each have an amount to round up at least as great as the fractional lottery ticket value; and selecting a ticket record from the set of ticket records which has a

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minimal amount to round up.”

The Economist proposes fractional rounding-up modifications that would have applied to the system and method of Walker ‘670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Walker ‘670 because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

As per claim 11, Walker ‘670 admits the elements and limitations of claim 11 are well known, i.e.:

A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal, comprising: determining a monetary value; selecting a ticket record that includes a set of ticket numbers; purchasing at least one lottery ticket based on the value and the set of ticket numbers after the step of selecting; and outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value.

Walker ‘670 an explicit recitation of: “determining a monetary value. . . .”

The Economist (p. 1) shows elements that suggest “determining a monetary

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value. . . .”

The Economist proposes monetary determination modifications that would have applied to the system and method of Walker ‘670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Walker ‘670 because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

Walker ‘670 lacks an explicit recitation of a lottery “determining an amount of change due for a purchase. . . .”

The Economist discloses “*Under Rossides’s system, shoppers randomly choose a number form 1 to 100 when they go to make a purchase. The shop’s electronic cash register is programmed to do the same, and the 2 numbers are added together; if the total is more than 100, then 100 is subtracted from it. If the result is less than or equal to the amount of change in the price, the price is rounded up. If the number is more, the price is rounded down. The laws of probability ensure that both parties get a fair deal in the long run. . . . of such gambling. . . .*” In this case, the Examiner interprets such gambling as directed to making change as a lottery “determining an amount of change due for a purchase. . . .”

The Economist proposes “lottery “determining an amount of change due for a purchase. . . .” modifications that would have applied to the **admitted prior art** attributed to Walker ‘670. It would have been obvious to one of ordinary skill in the

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art at the time of the invention to combine the teachings of The Economist with the **admitted prior art attributed to Walker '670** because such combination would have provided means for "determining a monetary value. . . ." (See The Economist (p. 1)).

The Economist (p. 1) shows elements that suggest "determining a monetary value based on the amount of change due. . . ."

The Economist proposes monetary determination modifications that would have applied to the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Walker '670 because such combination would have provided means for "determining a monetary value. . . ." (See The Economist (p. 1)).

Walker '670 lacks an explicit recitation of a lottery "ticket record. . . ."

It would have been obvious to a person of ordinary skill in the art that the disclosure of Walker '670 (i.e., **admission of well known prior art**) would have been selected and modified in accordance with the concepts and advantages of a lottery "ticket record. . . ." because such disclosure would have provided means for "[sending] . . . ticket completion information necessary to provide a completed lottery ticket. . . ." (See Roberts (col. 6, ll. 54-55)).

Walker '670 lacks an explicit recitation of: "outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value. . . ."

Roberts (FIG. 2B, el. 20b; and col. 4, ll. 5-65) shows elements that suggest

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“outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value. . . .”

Roberts proposes ticket number modifications that would have applied to the system and method of Walker ‘670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the system and method of Walker ‘670 because such combination would have provided means for “[sending] . . . ticket completion information necessary to provide a completed lottery ticket. . . .” (See Roberts (col. 6, ll. 54-55)).

As per claim 12, Walker ‘670 in view of Roberts and further in view of The Economist shows the method of claim 11. (See the rejection of claim 11 supra).

Walker ‘670 lacks an explicit recital of “rounding the amount of change due to a predetermined multiple, thereby generating a rounded change amount; and setting the monetary value equal to the rounded change amount.”

The Economist (p. 1) shows elements that suggest “rounding the amount of change due to a predetermined multiple, thereby generating a rounded change amount; and setting the monetary value equal to the rounded change amount.”

The Economist proposes change rounding modifications that would have applied to the system and method of Walker ‘670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the admitted well known fractional system and method of Walker ‘670

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because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

As per claim 13, Walker ‘670 in view of Roberts and further in view of The Economist shows the method of claim 12. (See the rejection of claim 12 supra).

Walker ‘670 lacks an explicit recital of “rounding down the amount of change due to a predetermined multiple, thereby generating a rounded-down change amount.”

The Economist (p. 1) shows elements that suggest “rounding down the amount of change due to a predetermined multiple, thereby generating a rounded-down change amount.”

The Economist proposes change rounding-down modifications that would have applied to the system and method of Walker ‘670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Walker ‘670 because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

As per claim 14, Walker ‘670 in view of Roberts and further in view of The Economist shows the method of claim 13. (See the rejection of claim 13 supra).

Walker ‘670 lacks an explicit recital of “outputting an offer to exchange a fractional lottery ticket for change due.”

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The Economist (p. 1) shows elements that suggest “outputting an offer to exchange a fractional lottery ticket for change due.”

The Economist proposes offer outputting modifications that would have applied to the system and method of Walker ‘670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Walker ‘670 because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

As per claim 15, the specification of the instant application referencing Walker ‘670 admits the elements and limitations of claim 15 are well known, i.e.:

A method for facilitating the purchase of fractional lottery tickets using a point-of-sale terminal, comprising: determining a monetary value; selecting a ticket record that includes a set of ticket numbers; purchasing at least one lottery ticket based on the monetary value and the set of ticket numbers after the step of selecting; and outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value.

Walker ‘670 lacks an explicit recitation of a lottery “ticket record. . . .”

It would have been obvious to a person of ordinary skill in the art that the

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admission in the instant applicaiton attributed to Walker '670 would have been selected and modified in accordance with the concepts and advantages of a lottery "ticket record. . . ." because such disclosure would have provided means for "[sending] . . . ticket completion information necessary to provide a completed lottery ticket. . . ." (See Roberts (col. 6, ll. 54-55)).

Walker '670 lacks an explicit recitation of: "outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value. . . ."

Roberts (FIG. 2B, el. 20b; and col. 4, ll. 5-65) shows elements that suggest "outputting the ticket numbers and a fractional lottery ticket value that is based on the monetary value. . . ."

Roberts proposes ticket number modifications that would have applied to the **admitted well known** system and method attributed to Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Roberts with the **admitted well known** system and method of Walker '670 because such combination would have provided means for "[sending] . . . ticket completion information necessary to provide a completed lottery ticket. . . ." (See Roberts (col. 6, ll. 54-55)).

Walker '670 lacks an explicit recitation of: "determining a monetary value. . . ."

The Economist (p. 1) shows elements that suggest "determining a monetary value. . . ."

The Economist proposes monetary determination modifications that would have

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applied to the system and method of Walker '670. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Walker '670 because such combination would have provided means for "determining a monetary value. . . ." (See The Economist (p. 1)).

Walker '670 lacks an explicit recitation of a lottery "determining a prize value of the at least one lottery ticket; and providing a portion of the prize value based on the fractional lottery ticket value."

The Economist discloses "*Under Rossides's system, shoppers randomly choose a number from 1 to 100 when they go to make a purchase. The shop's electronic cash register is programmed to do the same, and the 2 numbers are added together; if the total is more than 100, then 100 is subtracted from it. If the result is less than or equal to the amount of change in the price, the price is rounded up. If the number is more, the price is rounded down. The laws of probability ensure that both parties get a fair deal in the long run. . . . of such gambling. . . .*" In this case, the Examiner interprets such gambling as directed to making change as a lottery "determining a prize value of the at least one lottery ticket; and providing a portion of the prize value based on the fractional lottery ticket value. . . ."

It would have been obvious to a person of ordinary skill in the art that **the admitted well known fractional lottery system of Walker '670** would have been selected and modified in accordance with the concepts and advantages of a lottery

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“determining a prize value of the at least one lottery ticket; and providing a portion of the prize value based on the fractional lottery ticket value. . . .” because such disclosure would have provided means for “[sending] . . . ticket completion information necessary to provide a completed lottery ticket. . . .” (See Roberts (col. 6, ll. 54-55)).

Claims 20 & 21 are rejected for substantially the same reasons as claim 1.

Claims 22 & 23 are rejected for substantially the same reasons as claim 11.

Claims 24 & 25 are rejected for substantially the same reasons as claim 15.

6. Claims 16-18 & 26-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Roberts in view of Walker ‘670 and further in view of Nilssen 5,083,784(1/28/1992) (herein referred to as “Nilssen”).

As per claim 16, Roberts (FIG. 1; FIG. 2B; FIG. 3; and the ABSTRACT) shows elements that suggest:

A method for facilitating the purchase of fractional lottery tickets
using a point-of-sale terminal, comprising: determining a total

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value amount corresponding to a set of ticket numbers. . . .

Roberts lacks an explicit recitation of:

A method for facilitating the purchase of fractional lottery tickets
using a point-of-sale terminal, comprising: determining a total
value amount corresponding to a set of ticket numbers. . . .

As per claim 16, the specification of the instant application using referencing

Walker '670 admits the elements and limitations of claim 16 are well known, i.e.:

A method for facilitating the purchase of fractional lottery tickets
using a point-of-sale terminal, comprising: determining a total
value amount corresponding to a set of ticket numbers. . . .

The admitted prior art attributed to Walker '670 proposes fractional lottery
ticket modifications that would have applied to the lottery ticket system of Roberts. It
would have been obvious to a person of ordinary skill in the art at the time of the
invention to combine the disclosure of Walker '670 with the teachings of Roberts because
such disclosure would have provided means for "[sending] . . . ticket completion

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information necessary to provide a completed lottery ticket. . . .” (See Roberts (col. 6, ll. 54-55)).

Roberts lacks an explicit recitation of a lottery “acquiring at least one lottery ticket having the set of ticket numbers based on the total value amount.”

Nilssen (col. 6, ll. 24-40) shows elements that suggest “acquiring at least one lottery ticket having the set of ticket numbers based on the total value amount.”

Nilssen proposes lottery ticket acquisition based on value amount modifications that would have applied to the lottery ticket system of Roberts. It would have been obvious to combine the disclosure of Nilssen with the teachings of Roberts because such combination would have provided means to “[provide] . . . a lottery process and system operative to increasing the average monetary return from an investment in a lottery ticket. . . .” (See Nilssen (col. 1, ll. 25-30)).

As per claim 17, Roberts in view of **admitted prior art attributed to Walker ‘670** and further in view of Nilssen shows the method of claim 16. (See the rejection of claim 16 *supra*).

Roberts (col. 1, ll. 5-14) shows elements that suggest “acquiring is performed at predefined periods. . . .”

Roberts lacks an explicit recitation of a lottery “acquiring is performed at predefined periods.”

It would have been obvious to a person of ordinary skill in the art at the time of the

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invention that the disclosure of Roberts (col. 1, ll. 5-14) would have been selected in accordance with “acquiring is performed at predefined periods. . . .” because such selection would have provided means for “[*providing*] an improved lottery ticket vending machine.” (See Roberts (col. 2, ll. 1-2)).

As per claim 18, Roberts in view of **admitted prior art attributed to Walker ‘670** and further in view of Nilssen shows the method of claim 16. (See the rejection of claim 16 supra).

Roberts (col. 1, ll. 5-14) shows elements that suggest “acquiring is performed at predefined periods before a drawing.”

Roberts lacks an explicit recitation of a lottery “acquiring is performed at a predefined time before a drawing.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Roberts (col. 1, ll. 5-14) would have been selected in accordance with “acquiring is performed at a predefined time before a drawing. . . .” because such selection would have provided means for “[*providing*] an improved lottery ticket vending machine.” (See Roberts (col. 2, ll. 1-2)).

Claims 26 & 27 are rejected for substantially the same reasons as claim 16.

7. Claim 19 is rejected under 35 U.S.C. §103(a) as being unpatentable over Roberts in view

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of **admitted prior art attributed to Walker '670** and Nilssen and further in view of The Economist.

As per claim 19, Roberts in view of **admitted prior art attributed to Walker '670** and further in view of Nilssen shows the method of claim 16. (See the rejection of claim 16 supra).

Roberts lacks an explicit recitation of: “determining an amount to round up based on the total value amount; and in which the step of acquiring is performed when the amount to round up is below a predetermined value.”

The Economist (p. 1) shows elements that suggest “determining an amount to round up based on the total value amount. . . .”

The Economist proposes amount-rounding-up modifications that would have applied to the system and method of Roberts. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the **admitted prior art attributed to Walker '670** because such combination would have provided means for “determining a monetary value. . . .” (See The Economist (p. 1)).

Roberts lacks an explicit recitation of: “the step of acquiring is performed when the amount to round up is below a predetermined value. . . .”

The Economist (p. 1) shows elements that suggest “the step of acquiring is performed when the amount to round up is below a predetermined value. . . .”

The Economist proposes amount-rounding-up modifications that would have

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applied to the system and method of Roberts. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of The Economist with the system and method of Roberts because such combination would have provided means for "determining a monetary value. . . ." (See The Economist (p. 1)).

RESPONSE TO ARGUMENTS

8. Applicant's arguments (Appeal Brief, paper#19, filed 10/28/2003) have been considered but are not persuasive for the following reasons: Applicant's arguments are moot in view of new grounds of rejection corresponding with withdrawal of finality and reopening of prosecution of the instant application.

CONCLUSION

9. Any response to this action should be mailed to:

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Any response to this action may be sent via facsimile to either:

(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED PROCEDURE) or

(703) 746-7239 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Serial Number: 09/107,971

(Luchene)

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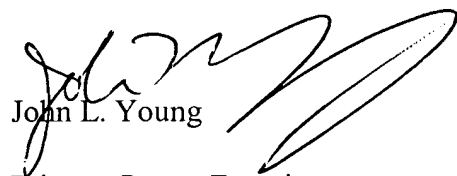
Hand delivered responses may be brought to:

Seventh floor Receptionist
Crystal Park V
2451 Crystal Drive
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.


John L. Young
Primary Patent Examiner

January 26, 2004